



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC 74-1388

~~29 JUN 1974~~

23 JUL 1974

Honorable Sam J. Ervin, Jr., Chairman
Committee on Government Operations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request for the views and recommendations of this Agency on S. 3418, "To establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State, and local governments, and other organizations regarding such information, and for other purposes."

S. 3418 establishes a comprehensive program for the protection of individual privacy which in principle I personally endorse. As the bill recognizes, however, there are circumstances when information on individuals must in the national interest remain confidential. Section 202 of the bill provides an exemption from the provisions of the Act for three such circumstances:

"(1) to the extent that information in such systems is maintained by a Federal agency, and the head of that agency determines that the release of the information would seriously damage national defense;

"(2) which are part of active criminal investigatory files compiled by Federal, State, or local law enforcement organizations, except where such files have been maintained for a period longer than is necessary to commence criminal prosecution; or

"(3) maintained by the press and news media, except information relating to employees of such organizations."

The National Security Act of 1947 and the Central Intelligence Agency Act of 1949, the statutory bases of CIA, recognize that the conduct of foreign intelligence by its nature must be confidential. Accordingly, the Director was charged with the responsibility for protecting Intelligence Sources and Methods from unauthorized disclosure and the Agency was exempted from provisions of law requiring certain public disclosures (50 U. S. C. A. 403g).

Section 201 of S. 3418 would require Federal agencies to publicly disclose extensive details regarding information systems that contain personal information and notify all individuals who are subjects of such information systems of this fact. Agencies would also be required to furnish upon the request of any individual who is a subject of an information system, including non-resident foreign nationals, the details and source of the information.

It is my view that the protection of Intelligence Sources and Methods requires that a substantial percentage if not all of this Agency's holdings of information on individuals and details of our information systems must remain classified and not subject to public disclosure under S. 3418. This is so not only to protect the lives and well being of agents abroad but also to preserve the sources and methods used to collect foreign intelligence information which is vital to our national security. In addition to these considerations, I wish to stress that the bulk of the Agency's foreign intelligence information concerns foreign personalities and obviously should be exempted from the disclosure requirements of the bill.

Although S. 3418 contains a provision to exempt from the operation of the Act information systems maintained by a Federal agency to the extent that information in such systems, if released, would seriously damage national defense, some information maintained by CIA concerning Intelligence Sources and Methods arguably would not qualify for exemption as the bill is now written. In the interest of avoiding a possible statutory

conflict and to ensure that CIA will be able to continue to effectively carry out its foreign intelligence mission, it is requested that the proposed legislation be amended to specifically exempt this Agency. Recommended language is enclosed.

The Office of Management and Budget advises there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

/s/ W. E. Colby

W. E. Colby
Director

Enclosure

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Suggested Language for S. 3418

Add section 202(4) as follows:

"(4) maintained by the Central Intelligence
Agency."